



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

June 20, 2003

Ms. Janis Kennedy Hampton
Bryan Assistant City Attorney
City of Bryan
P. O. Box 1000
Bryan, Texas 77805

OR2003-4270

Dear Ms. Hampton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 183170.

The Bryan Police Department (the "department") received a request for ten categories of information related to a robbery at a Walmart, and "[a] complete list of any and all reports, responses, calls and any other involvement by the Bryan Police Department" at the same Walmart for the past 24 months. You claim that the information responsive to the first ten categories of requested information is excepted from disclosure under sections 552.027 and 552.108 of the Government Code. You claim that information responsive to the last request, "a list of reports and calls," shall be provided to the requestor. You state, however, that if the requestor is seeking telephone numbers and addresses furnished to the 911 emergency communications district, such information is excepted under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. You further state that you will seek clarification from the requestor regarding what is meant by "any other involvement by the Bryan Police Department."¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we will address your contention that the department is not required to disclose the requested newsprint or press releases pursuant to section 552.027 of the Government Code. Section 552.027 provides:

(a) A governmental body is not required under this chapter to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the governmental body for research purposes if the book or publication is commercially available to the public.

¹This decision addresses only the information you submitted and seek to withhold under sections 552.027 and 552.108. See Gov't Code § 552.301(e)(1)(D).

(b) Although information in a book or publication may be made available to the public as a resource material, such as a library book, a governmental body is not required to make a copy of the information in response to a request for public information.

(c) A governmental body shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of a governmental body.

Section 552.027 is designed to alleviate the burden of providing copies of commercially available books, publications, and resource materials maintained by a governmental body, such as telephone directories, dictionaries, encyclopedias, statutes, and periodicals. Therefore, section 552.027 provides exemptions from the definition of "public information" under section 552.002 for commercially available research material. However, while the department does not have to provide copies of a newspaper, section 552.027 is not applicable to copies of news articles extracted from a newspaper, and any such information must be released. We also note that the department states it has not issued any press releases.

We next address your contention that "if the Requestor is seeking telephone numbers and addresses furnished to the 911 emergency communications district in its request Item No. 11, 'list of calls', that such information is excepted from disclosure for the reason that they are confidential as a matter of law under section 772.318 of the Health and Safety Code." Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information another statute makes confidential. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier. *See* Open Records Decision No. 649 (1996). Section 772.118 applies to emergency communication districts for counties with a population over two million. Section 772.218 applies to emergency communication districts for counties with a population over 860,000. Section 772.318 applies to emergency communication districts for counties with a population over 20,000. Subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 9-1-1 telephone numbers and addresses. *See* Health & Safety Code §§ 772.401 *et seq.* Therefore, if the calls for service at issue involve an emergency communication district subject to section 772.118, 772.218, or 772.318, and the phone number and address were furnished by a service supplier, we agree that the caller's telephone number and address are excepted from public disclosure based on section 552.101 of the Government Code as information deemed confidential by statute.

Finally, we will address your argument that the submitted information is excepted under section 552.108 of the Government Code. Section 552.108(a)(1) excepts from disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime if release of the information would interfere with the detection, investigation, or prosecution of crime. You state that the submitted information relates to an open investigation. Based on your arguments and our review of the submitted

information, we agree that you have demonstrated that release of the requested information would interfere with the detection, investigation, or prosecution of crime. The department may therefore withhold the submitted information pursuant to section 552.108(a)(1) of the Government Code.

We note, however, that information normally found on the front page of an offense report is generally considered public. *See generally* Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976), which includes a detailed description of the offense. Thus, you must release the types of information that are considered to be front page offense report information. Although section 552.108(a)(1) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Sarah I. Swanson
Assistant Attorney General
Open Records Division

SIS/lmt

Ref: ID# 183170

Enc. Submitted documents

c: Mr. Jamin Syptak
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(w/o enclosures)